

118TH CONGRESS
1ST SESSION

S. _____

To promote peace through strength in Taiwan, and for other purposes.

IN THE SENATE OF THE UNITED STATES

Mr. RUBIO introduced the following bill; which was read twice and referred
to the Committee on _____

A BILL

To promote peace through strength in Taiwan, and for other
purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Taiwan Peace through
5 Strength Act of 2023”.

6 **SEC. 2. ANTICIPATORY POLICY PLANNING AND ANNUAL RE-**
7 **VIEW OF UNITED STATES WAR PLANS TO DE-**
8 **FEND TAIWAN.**

9 (a) IN GENERAL.—Not later than 180 days after the
10 date of the enactment of this Act, and annually thereafter,
11 the Secretary of Defense shall conduct a classified review

1 of United States war plans to defend Taiwan and share
2 the results of the review with the Chairman and Ranking
3 Member of the Committee on Armed Services of the Sen-
4 ate and the Committee on Armed Services of the House
5 of Representatives.

6 (b) ELEMENTS.—The review conducted under sub-
7 section (a) shall include the following elements:

8 (1) An assessment of Taiwan’s current and
9 near-term capabilities and United State force readi-
10 ness and the adequacy of United States conflict con-
11 tingency plans.

12 (2) A comprehensive assessment of risks to the
13 United States and United States interests, including
14 readiness shortfalls that pose strategic risk.

15 (3) A review of indicators of the near-term like-
16 lihood of the use of force by the People’s Liberation
17 Army against Taiwan.

18 (4) The compilation of a pre-approved list of
19 military capabilities, including both asymmetric and
20 traditional capabilities selected to suit the oper-
21 ational environment and to allow Taiwan to respond
22 effectively to a variety of contingencies across all
23 phases of conflict involving the People’s Liberation
24 Army, that the Secretary of Defense has pre-cleared
25 for Taiwan to acquire, and that would reduce the

1 threat of conflict, thwart an invasion, and mitigate
2 other risks to the United States and Taiwan.

3 **SEC. 3. FAST-TRACKING SALES TO TAIWAN UNDER FOR-**
4 **EIGN MILITARY SALES PROGRAM.**

5 (a) PRECLEARANCE OF CERTAIN FOREIGN MILITARY
6 SALES ITEMS.—

7 (1) IN GENERAL.—Not later than one year
8 after the date of the enactment of this Act, and an-
9 nually thereafter, the Secretary of State, in coordi-
10 nation with the Secretary of Defense and in conjunc-
11 tion with relevant coordinating entities, such as the
12 National Disclosure Policy Committee and the Arms
13 Transfer and Technology Release Senior Steering
14 Group, shall—

15 (A) compile and submit to the relevant
16 congressional committees a list of available and
17 emerging military platforms, technologies, and
18 equipment; and

19 (B) upon listing such platforms, tech-
20 nologies, and equipment, pre-clear and
21 prioritize for sale and release to Taiwan
22 through the Foreign Military Sales program
23 such platforms, technologies, and equipment.

24 (2) SELECTION OF ITEMS.—The items pre-
25 cleared for sale pursuant to paragraph (1)—

1 (A) shall represent a full-range of asym-
2 metric capabilities as well as the conventional
3 capabilities informed by United States readiness
4 and risk assessments and determined by Tai-
5 wan to be required for various wartime sce-
6 narios and peacetime duties; and

7 (B) shall include each item on the list of
8 approved items compiled by the Secretary of
9 Defense pursuant to section 2(b)(4).

10 (3) EXCEPTION.—The Secretary of State may
11 exclude an item from the list described in paragraph
12 (1)(A) if the Secretary of State submits to the ap-
13 propriate congressional committees a determination
14 that the costs of providing such items, including the
15 potential costs of technology slippage, exceeds the
16 costs to the United States of failing to arm Taiwan
17 with such items, including the likelihood of being
18 drawn into conflict with the People’s Republic of
19 China.

20 (4) RULE OF CONSTRUCTION.—The list com-
21 piled pursuant to section 2(b)(4) shall not be con-
22 strued as limiting the type, timing, or quantity of
23 items that may be requested by, or sold to, Taiwan
24 under the Foreign Military Sales program.

1 (5) FINAL DETERMINATION OF DISPUTES.—

2 The Department of Defense shall serve as the lead
3 Federal agency for purposes of making final deter-
4 minations when disputes arise between agencies
5 about the appropriateness of specific items for sale
6 to Taiwan.

7 (b) PRIORITIZED PROCESSING OF FOREIGN MILI-
8 TARY SALES REQUESTS FROM TAIWAN.—

9 (1) REQUIREMENT.—The Secretary of Defense
10 and the Secretary of State shall prioritize and expe-
11 dite the processing of requests from Taiwan under
12 the Foreign Military Sales program, and may not
13 delay the processing of requests for bundling pur-
14 poses.

15 (2) DURATION.—The requirement under para-
16 graph (1) shall continue until the Secretary of De-
17 fense determines and certifies to the Committee on
18 Armed Services of the Senate and the Committee on
19 Armed Services of the House of Representatives that
20 the threat to Taiwan has significantly abated.

21 (3) ANNUAL REPORT.—Not later than 180 days
22 after the date of the enactment of this Act, and an-
23 nually thereafter for 10 years, the Secretary of De-
24 fense shall submit to the Committee on Armed Serv-
25 ices of the Senate and the Committee on Armed

1 Services of the House of Representatives a report
2 describing steps taken to implement the requirement
3 under paragraph (1).

4 (c) PRIORITY PRODUCTION.—

5 (1) REQUIREMENT.—The Secretary of Defense
6 shall require that contractors awarded Department
7 of Defense contracts to provide items for sale to Tai-
8 wan under the Foreign Military Sales program shall,
9 as a condition of receiving such contracts, expedite
10 and prioritize the production of such items above the
11 production of other Foreign Military Sales items re-
12 gardless of the order in which contracts were signed.

13 (2) DURATION.—The requirement under para-
14 graph (1) shall continue until the Secretary of De-
15 fense determines and certifies to the Committee on
16 Armed Services of the Senate and the Committee on
17 Armed Services of the House of Representatives that
18 the threat to Taiwan has significantly abated.

19 (3) ANNUAL REPORT.—Contractors covered
20 under paragraph (1) shall be required to report an-
21 nually to the Committee on Armed Services of the
22 Senate and the Committee on Armed Services of the
23 House of Representatives on efforts to expedite and
24 prioritize production as required under such para-
25 graph.

1 (d) INTERAGENCY POLICY.—The Secretary of State
2 and the Secretary of Defense shall jointly review and up-
3 date interagency policies and implementation guidance re-
4 lated to Foreign Military Sales requests from Taiwan, in-
5 cluding incorporating the preclearance and prioritization
6 provisions of this section.

7 **SEC. 4. AMENDMENTS TO TAIWAN RELATIONS ACT.**

8 (a) POLICY.—Section 2(b)(5) of the Taiwan Rela-
9 tions Act (22 U.S.C. 3301(b)(5)) is amended by striking
10 “arms of a defensive character” and inserting “arms con-
11 ducive to the deterrence of acts of aggression by the Peo-
12 ple’s Liberation Army”.

13 (b) PROVISION OF DEFENSE ARTICLES AND SERV-
14 ICES.—Section 3(a) of the Taiwan Relations Act (22
15 U.S.C. 3302(a)) is amended by striking “such defense ar-
16 ticles and defense services in such quantity as may be nec-
17 essary to enable Taiwan to maintain a sufficient self-de-
18 fense capability” and inserting “such defense articles and
19 defense services in such quantity as may be necessary to
20 enable Taiwan to implement a strategy to deter acts of
21 aggression by the People’s Liberation Army and to deny
22 an invasion of Taiwan by the People’s Liberation Army”.

23 (c) RULE OF CONSTRUCTION.—Section 4 of the Tai-
24 wan Relations Act (22 U.S.C. 3303) is amended by adding
25 at the end the following new subsection:

1 “(e) SECURITY COOPERATION AND DETERRENCE OF
2 USE OF FORCE BY PEOPLE’S LIBERATION ARMY.—Noth-
3 ing in this Act, nor the facts of the President’s action in
4 extending diplomatic recognition to the People’s Republic
5 of China, the absence of diplomatic relations between the
6 people of Taiwan and the United States, or the lack of
7 formal recognition by the United States, and attendant
8 circumstances thereto, shall be construed to constitute a
9 legal or practical obstacle to any otherwise lawful action
10 of the President or of any United States Government
11 agency that is needed to advance or protect United States
12 interests pertaining to Taiwan, including actions intended
13 to strengthen security cooperation between the United
14 States and Taiwan or to otherwise deter the use of force
15 against Taiwan by the People’s Liberation Army.”.

16 **SEC. 5. MILITARY PLANNING MECHANISM.**

17 The Secretary of Defense shall establish a high-level
18 military planning mechanism between the United States
19 and Taiwan to oversee a Joint and Combined Exercise
20 Program and coordinate International Military Education
21 and Training assistance and professional exchanges aimed
22 at determining and coordinating the acquisition of capa-
23 bilities for both United States and Taiwan military forces
24 to address the needs of currently anticipated and future
25 contingencies. The mechanism may be modeled after the

1 Joint United States Military Advisory Group Thailand, or
2 any such similar existing arrangement, as determined by
3 the Secretary of Defense.

4 **SEC. 6. PROHIBITION ON DOING BUSINESS IN CHINA.**

5 (a) REQUIREMENT.—The Secretary of Defense shall
6 require any contractor awarded a Department of Defense
7 contract, as a condition of receiving such contract, not to
8 conduct any business in the People’s Republic of China
9 with any entity that is owned by or controlled by the Gov-
10 ernment of the People’s Republic of China or the Chinese
11 Communist Party, or any subsidiary of such a company.

12 (b) DETERMINATION OF NONCOMPLIANCE.—If the
13 Secretary of Defense determines that a Department of De-
14 fense contractor is noncompliant with the requirement in
15 subsection (a)—

16 (1) such noncompliance shall be considered
17 grounds for termination of the contract; and

18 (2) the Secretary of Defense shall terminate the
19 contract.

20 **SEC. 7. TAIWAN CRITICAL MUNITIONS ACQUISITION FUND.**

21 (a) ESTABLISHMENT.—There shall be established in
22 the Treasury of the United States a revolving fund to be
23 known as the “Taiwan Critical Munitions Acquisition
24 Fund” (in this section referred to as the “Fund”).

1 (b) PURPOSE.—Subject to the availability of appro-
2 priations, amounts in the Fund shall be made available
3 by the Secretary of Defense—

4 (1) to ensure that adequate stocks of critical
5 munitions necessary for a denial defense are avail-
6 able to allies and partners of the United States in
7 advance of a potential operation to defend the au-
8 tonomy and territory of Taiwan; and

9 (2) to finance the acquisition of critical muni-
10 tions necessary for a denial defense in advance of
11 the transfer of such munitions to foreign countries
12 for such a potential operation.

13 (c) ADDITIONAL AUTHORITY.—Subject to the avail-
14 ability of appropriations, the Secretary of Defense may
15 also use amounts made available to the Fund—

16 (1) to keep on continuous order munitions that
17 the Secretary of Defense considers critical due to a
18 reduction in current stocks as a result of the draw-
19 down of stocks provided to the government of one or
20 more foreign countries; or

21 (2) with the concurrence of the Secretary of
22 State, to procure munitions identified as having a
23 high-use rate.

24 (d) DEPOSITS.—

1 (1) IN GENERAL.—The Fund shall consist of
2 each of the following:

3 (A) Collections from sales made under let-
4 ters of offer (or transfers made under the For-
5 eign Assistance Act of 1961 (22 U.S.C. 2151 et
6 seq.)) of munitions acquired using amounts
7 made available from the Fund pursuant to this
8 section, representing the value of such items
9 calculated, as applicable, in accordance with—

10 (i) subparagraph (B) or (C) of section
11 21(a)(1) of the Arms Export Control Act
12 (22 U.S.C. 2761(a)(1));

13 (ii) section 22 of the Arms Export
14 Control Act (22 U.S.C. 2762); or

15 (iii) section 644(m) of the Foreign As-
16 sistance Act of 1961 (22 U.S.C. 2403(m)).

17 (B) Such amounts as may be appropriated
18 pursuant to the authorization under this section
19 or otherwise made available for the purposes of
20 the Fund.

21 (C) Not more than \$2,000,000,000 may be
22 transferred to the Fund for any fiscal year, in
23 accordance with subsection (e), from amounts
24 authorized to be appropriated for the Depart-
25 ment of Defense in such amounts as the Sec-

1 retary of Defense determines necessary to carry
2 out the purposes of this section, which shall re-
3 main available until expended. The transfer au-
4 thority provided under this subparagraph is in
5 addition to any other transfer authority avail-
6 able to the Secretary of Defense.

7 (2) CONTRIBUTIONS FROM FOREIGN GOVERN-
8 MENTS.—

9 (A) IN GENERAL.—Subject to subpara-
10 graph (B), the Secretary of Defense may accept
11 contributions of amounts to the Fund from any
12 foreign government or international organiza-
13 tion. Any amounts so accepted shall be credited
14 to the Taiwan Critical Munitions Acquisition
15 Fund and shall be available for use as author-
16 ized under subsection (b).

17 (B) LIMITATION.—The Secretary of De-
18 fense may not accept a contribution under this
19 paragraph if the acceptance of the contribution
20 would compromise, or appear to compromise,
21 the integrity of any program of the Department
22 of Defense.

23 (C) NOTIFICATION.—If the Secretary of
24 Defense accepts any contribution under this
25 paragraph, the Secretary shall notify the appro-

1 appropriate committees of Congress. The notice shall
2 specify the source and amount of any contribu-
3 tion so accepted and the use of any amount so
4 accepted.

5 (e) NOTIFICATION.—

6 (1) IN GENERAL.—No amount may be trans-
7 ferred pursuant to subsection (d)(1)(C) until the
8 date that is 15 days after the date on which the Sec-
9 retary of Defense submits to the appropriate com-
10 mittees of Congress—

11 (A) notice in writing of the amount and
12 purpose of the proposed transfer; and

13 (B) in the case of an authorization pursu-
14 ant to subsection (f)(1)(A), a description of the
15 manner in which the use of critical munitions is
16 necessary to meet national defense require-
17 ments.

18 (2) AMMUNITION PURCHASES.—No amounts in
19 the Fund may be used to purchase ammunition, as
20 authorized by this section, until the date that is 15
21 days after the date on which the Secretary of De-
22 fense notifies the appropriate committees of Con-
23 gress in writing of the amount and purpose of the
24 proposed purchase.

1 (3) FOREIGN TRANSFERS.—No munition pur-
2 chased using amounts in the Fund may be trans-
3 ferred to a foreign country until the date that is 15
4 days after the date on which the Secretary of De-
5 fense notifies the appropriate committees of Con-
6 gress in writing of the proposed transfer.

7 (f) LIMITATIONS.—

8 (1) LIMITATION ON TRANSFER.—No munition
9 acquired by the Secretary of Defense using amounts
10 made available from the Fund pursuant to this sec-
11 tion may be transferred to any foreign country un-
12 less such transfer is authorized by the Arms Export
13 Control Act (22 U.S.C. 2751 et seq.), the Foreign
14 Assistance Act of 1961 (22 U.S.C. 2151 et seq.), or
15 other applicable law, except as follows:

16 (A) The Secretary of Defense, with the
17 concurrence of the Secretary of State, may au-
18 thorize the use by the Department of Defense
19 of munitions acquired under this section prior
20 to transfer to a foreign country, if such use is
21 necessary to meet national defense require-
22 ments and the Department bears the costs of
23 replacement and transport, maintenance, stor-
24 age, and other such associated costs of such
25 munitions.

1 (B) Except as required by subparagraph
2 (A), amounts made available to the Fund may
3 be used to pay for storage, maintenance, and
4 other costs related to the storage, preservation,
5 and preparation for transfer of munitions ac-
6 quired under this section prior to their transfer,
7 and the administrative costs of the Department
8 of Defense incurred in the acquisition of such
9 items, to the extent such costs are not eligible
10 for reimbursement pursuant to section 43(b) of
11 the Arms Export Control Act (22 U.S.C.
12 2792(b)).

13 (2) CERTIFICATION REQUIREMENT.—

14 (A) IN GENERAL.—No amounts in the
15 Fund may be used pursuant to this section un-
16 less the President—

17 (i) certifies to the appropriate com-
18 mittees of Congress that the Special De-
19 fense Acquisition Fund established pursu-
20 ant to chapter 5 of the Arms Export Con-
21 trol Act (22 U.S.C. 2795 et seq.) cannot
22 be used to fulfill the same functions and
23 objectives for which such amounts to be
24 made available from the Fund are to be
25 used; and

1 (ii) includes in such certification a
2 justification for the certification, which
3 may be included in a classified annex, if
4 necessary.

5 (B) NONDELEGATION.—The President
6 may not delegate any responsibility of the
7 President under subparagraph (A).

8 (g) TERMINATION.—The authority for the Fund
9 under this section shall expire on December 31, 2040.

10 (h) APPROPRIATE COMMITTEES OF CONGRESS DE-
11 FINED.—In this section, the term “appropriate commit-
12 tees of Congress” means—

13 (1) the Committee on Armed Services, the
14 Committee on Appropriations, and the Committee on
15 Foreign Relations of the Senate; and

16 (2) the Committee on Armed Services, the
17 Committee on Appropriations, and the Committee on
18 Foreign Affairs of the House of Representatives.

19 **SEC. 8. INCREASING PRODUCTION CAPACITY FOR WEAP-**
20 **ONS FOR UNITED STATES STOCKPILES.**

21 (a) REPORT REQUIREMENT RELATING TO INCREASE
22 IN CONTRACTED ENTITIES.—Section 222c(e) of title 10,
23 United States Code, as amended by section 1701(c) of the
24 James M. Inhofe National Defense Authorization Act for
25 Fiscal Year 2023 (Public Law 117–263), is further

1 amended by adding at the end the following new para-
2 graph:

3 “(4) Steps taken to increase the number of en-
4 tities contracted to supply each class of weapons de-
5 scribed in section 1705(c) of the James M. Inhofe
6 National Defense Authorization Act for Fiscal Year
7 2023 (Public Law 117–263) in order to produce re-
8 dundancy in the supply of such weapons.”.

9 (b) **MODIFICATION TO QUARTERLY BRIEFINGS ON**
10 **REPLENISHMENT AND REVITALIZATION OF WEAPONS**
11 **PROVIDED TO UKRAINE AND TAIWAN.**—Section 1703 of
12 the James M. Inhofe National Defense Authorization Act
13 for Fiscal Year 2023 (Public Law 117–263) is amended—

14 (1) in the section heading, by inserting “**AND**
15 **TAIWAN**” after “**UKRAINE**”;

16 (2) in subsection (a), by inserting “, the Com-
17 mittee on Foreign Relations of the Senate, and the
18 Committee on Foreign Affairs of the House of Rep-
19 resentatives” after “congressional defense commit-
20 tees”;

21 (3) in subsection (d)(2), by inserting “or Tai-
22 wan” after “Ukraine”;

23 (4) in subsection (e), by striking “December 31,
24 2026” and inserting “December 31, 2040”; and

1 (5) by striking subsection (f) and inserting the
2 following:

3 “(f) COVERED SYSTEM.—In this section, the term
4 ‘covered system’ means—

5 “(1) any system provided to the Government of
6 Ukraine or the Government of Taiwan pursuant
7 to—

8 “(A) section 506 of the Foreign Assistance
9 Act of 1961 (22 U.S.C. 2318); or

10 “(B) section 614 of the Foreign Assistance
11 Act of 1961 (22 U.S.C. 2364);

12 “(2) any system provided to the Government of
13 Ukraine pursuant to the Ukraine Security Assist-
14 ance Initiative established under section 1250 of the
15 National Defense Authorization Act for Fiscal Year
16 2016 (Public Law 114–92), including as amended
17 by this Act, if such system was provided to Ukraine
18 after February 24, 2022; or

19 “(3) any system provided to the Government of
20 Taiwan—

21 “(A) pursuant to section 5502(b) of this
22 Act; or

23 “(B) that is necessary for a denial defense
24 of Taiwan.”.

1 (c) ASSESSMENT ON EXPANDING NATIONAL TECH-
2 NOLOGY AND INDUSTRIAL BASE.—Section 222d(b) of title
3 10, United States Code, as added by section 1701(d)(1)
4 of the James M. Inhofe National Defense Authorization
5 Act for Fiscal Year 2023 (Public Law 117–263), is
6 amended by adding at the end the following new para-
7 graph:

8 “(13) An assessment of the feasibility and ad-
9 visability of expanding the national technology and
10 industrial base (as defined in section 4801 of this
11 title) to include entities outside of the United States,
12 Canada, the United Kingdom, New Zealand, Israel,
13 and Australia in order to increase the number of
14 suppliers of weapons described in section 1705(c) of
15 the James M. Inhofe National Defense Authoriza-
16 tion Act for Fiscal Year 2023 (Public Law 117–
17 263), with particular attention to member states of
18 the North Atlantic Treaty Organization, treaty allies
19 of the United States in the Indo-Pacific, and mem-
20 bers of the Quadrilateral Security Dialogue.”.

21 (d) MINIMUM ANNUAL PRODUCTION LEVELS.—The
22 Secretary of Defense shall include minimum annual pro-
23 duction levels for weapons described in section 1705(c) of
24 the James M. Inhofe National Defense Authorization Act
25 for Fiscal Year 2023 (Public Law 117–263) in any con-

- 1 tract for the procurement of such weapons entered into
- 2 on or after the date of the enactment of this Act.